

JUDGE NANCY F. ATLAS

July, 1999

**THE ATTACHED MUST BE SERVED
WITH THE SUMMONS AND COMPLAINT
OR REMOVAL PAPERS**

Your attention is directed to the **Court Procedures** and **attachments**, which are applicable to cases assigned to Judge Atlas.

Plaintiff must serve these materials on all defendants with the summons and complaint. The Order for Conference also must be served on all defendants. A party removing a case to this Court has the same obligation as a plaintiff filing an original complaint. Proof reflecting service of these materials must be filed with the Clerk. A form of **Certificate of Service In Removed Action** is attached.

In addition, attached are a Notice of the Right to Try a Civil Case before a Magistrate Judge and a form of Consent.

The accompanying procedures are to be used in conjunction with the Local Rules and not as a substitute for them.

HONORABLE NANCY F. ATLAS

United States Courthouse
515 Rusk Street, Room 9015
Houston, Texas 77002-2601
Tel.: (713) 250-5990
Fax: (713) 250-5994

SHELIA ASHABRANNER

Case Manager for Judge Nancy F. Atlas
Post Office Box 61010
Houston, Texas 77208
Tel.: (713) 250-5407
Fax: (713) 250-5994

COURT PROCEDURES

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1. CONTACT WITH COURT PERSONNEL

- A. **Case-related telephone inquiries should be made only to the Case Manager.** Inquiries should **not** be made to the Court's secretary or law clerks.
- B. **Information** about the filing of documents, entry of orders, or docket entries should be obtained from the United States District Clerk's Office ((713) 250-5115).
- C. The Court's caseload will not allow the Case Manager to respond to casual telephone inquiries about motions and case status generally. **Inquiries to the Case Manager should be by letter, unless time does not permit.**
- D. Correspondence with the Court:
 - 1. Case-related correspondence must be addressed to:

**Shelia Ashabranner
Case Manager to Judge Nancy F. Atlas
United States District Clerk's Office
Post Office Box 61010
Houston, Texas 77208**
 - 2. Do not address substantive issues in letter form, because they generally are not docketed or included in the appellate record.
 - 3. **Copies of urgent** documents (including letters) may be sent to Chambers. (*See* Emergencies, § 2, below.)

2. EMERGENCIES

- A. Applications for restraining orders or for other immediate relief shall be made through the Case Manager. Such applications shall be presented to the Court by the Case Manager following counsel's affirmation that **the opposing party has been contacted** and that **both** parties can be available for a conference before the Court. *Ex parte* applications for restraining orders will **not** be entertained by the Court unless the requirements of Fed. R. Civ. P. 65(b) have been satisfied.
- B. Motions for **extension** of deadlines or cut-off dates in the Docket Control Order are **not** emergencies. (*See* Continuances, § 3, below.)

3. CONTINUANCES

- A. Agreements or **joint motions among counsel** for continuance are **not binding**, and Motions for Continuance will be granted only at the Court's discretion.
- B. **Vacation requests** will be respected if they are made well in advance of a trial setting.
- C. A trial will **not** be continued because of the **unavailability of a witness**. Counsel are expected to anticipate such possibilities and should be prepared to present testimony by written deposition, video taped deposition, or by stipulation.

4. APPEARANCES

- A. **An attorney who appears** at a hearing or conference shall
 - 1. be familiar with the case,
 - 2. have authority to bind the client, and
 - 3. be in charge for that appearance.
- B. If out-of-town counsel wish to appear at a **conference by telephone**, a written request should be made to the Case Manager as far in advance of the conference as reasonably possible. The Court will attempt to accommodate such requests.
- C. Counsel or a *pro se* litigant will notify the Case Manager **immediately** of the **resolution** of any matter that is set for trial or hearing.
- D. **Failure to appear** when notified of a setting may subject the attorney and/or his or her client to sanctions, including dismissal for want of prosecution and/or other appropriate order or judgment.
- E. **Motions for admission *pro hac vice*** shall include the attorney applicant's averment that he or she has familiarized him/herself with the Local Rules of the Southern District of Texas *and* these Procedures applicable to all cases before Judge Atlas.

5. MOTION PRACTICE

- A. **General Guidelines**: The Court follows the written motion practice described in the Local Rules.
 - 1. Counsel must make **serious and timely efforts to confer** with opposing counsel on all motions to try to reach agreements on the relief to be requested by movant.
 - 2. **All motions must** be accompanied by a separate **proposed order** granting or denying the relief requested.

3. **Opposed motions** and responses generally will be considered by the Court after the submission date, which is **23 days** after filing, including three days allowed for mailing. If a response is filed prior to the 23d day, however, the motion may be considered prior to the expiration of the full 23 days. The submission day may be extended by agreement of counsel except when the extension violates a Court-imposed deadline. Counsel must immediately notify the Case Manager, by letter, of such an agreement.

Reply Briefs filed by movants will be considered if submitted before the Court actually rules on the motion. Generally, reply briefs should be submitted within five days after the non-movant's response to the motion is filed. A courtesy copy of reply briefs should be delivered to chambers.

4. Any party wishing to make a discovery motion should arrange for a conference with the Court before the preparation and submission of any motion papers. Send or fax a letter to Chambers (attn: Ms. Ashabranner, the Court Case Manager) to arrange for a pre-motion conference. The Court will set a conference and the party initiating the request will be responsible to notify the adversary of the date and time of the conference. The Court's direct fax number is (713) 250-5994. The Court will endeavor to resolve the dispute based on the parties' letters received prior to the conference and upon oral argument at the conference. If a motion is necessary, the issues to be addressed and a schedule for briefs will be set at the conference.
5. Because most motions will be ruled on **without an oral hearing**, brief, clear motion papers are very important. Requests for oral argument on motions are not necessary. The Case Manager will notify counsel should the Court determine that oral argument would be beneficial.

B. Submitted Motions--Need for Expedited Decision:

1. The **Court will rule** on motions as soon as possible after the submission day or a response is filed. Counsel of record will be furnished with copies of orders.
2. If a pending motion requires resolution on an expedited basis, please advise the Court by letter to chambers.

C. Discovery Disputes: The Court believes that most discovery disputes, especially those dealing with (i) scheduling, (ii) the number, length, and form of oral and written questions, (iii) the responsiveness of answers to oral and written questions, and (iv) the mechanics of document productions, including protective orders and the proper method of raising claims of privilege, can be resolved by counsel without the intervention of the Court.

1. **Counsel are responsible for conferring in good faith to resolve discovery disputes.** If counsel are unable to reach an agreement, **a conference with the Court MUST be sought by letter (delivered to Chambers or faxed ((713) 250-**

5994)). The request **must** specify the date, time and place of the parties' prior out-of-court discovery conference and the names of all parties' counsel participating therein. If counsel has been unable to confer with the opposing counsel because of the unavailability or unwillingness of opposing counsel to do so, the statement shall recite the facts concerning attempts to confer.

2. The Court will dispose of discovery disputes at the conference to the extent possible. If a written motion is necessary, the issues to be addressed and a briefing schedule will be set during the conference.

D. Discovery Deadline Extensions: Motions for extension of discovery deadlines must be filed far enough in advance of the deadline so that opposing counsel may respond **before** the deadline.

E. "Courtesy" Copies: Follow the Local Rules' filing requirements, which require parties to file an **ORIGINAL** and **ONE COPY** with the Clerk's Office. Unless a court appearance is within 5 business days of the filing of a document or unless otherwise instructed by the Court, do **not** send courtesy copies of motions or briefs to Chambers. It is permissible to send a copy of your transmittal letter to Chambers as well as to the Clerk.

6. BRIEFS

A. Page Limits and Briefing Requirements: The Court requires concise, pertinent and well organized briefs and memoranda of law. Without leave of Court, any brief or memorandum shall be limited to **25 pages**. Any brief or memorandum that has more than 10 pages of argument must contain the following items. **All** briefs and memoranda must contain items 3, 4, 6 and 7 below.

1. A table of contents setting forth the page number of each section, including all headings designated in the body of the brief or memorandum.
2. A table of citations of cases, statutes, rules, textbooks and other authorities, alphabetically arranged.
3. A short statement of the nature and stage of the proceeding.
4. A statement of the issues to be ruled upon by the Court and with respect to each issue a short statement, supported by authority, of the standard of review.
5. A short summary of the argument.
6. The argument shall be divided under appropriate headings succinctly setting forth separate points.
7. A short conclusion stating the precise relief sought.

B. Copies of Authorities and Other Material Cited:

1. Please **append copies of cases** and the relevant parts of authorities that are cited in a brief, memorandum or motion **if** the authorities are **not** found in the United States Code, United States Supreme Court Reporter, Federal Reporter, Federal Rules Decisions, Federal Supplement, Southwestern Reporter Second or Vernon's Revised Statutes and Codes Annotated.
2. Copies of any affidavits, deposition testimony, or other discovery referred to should also be contained in the **appendix**.
3. All appendices should contain a **paginated table of contents**, and should be **tabbed** at the right margin to locate easily the materials contained in the appendix.

7. INITIAL PRETRIAL CONFERENCES AND DOCKET CONTROL ORDERS

Please comply with Local Rule 8 and the Court's Order for Conference. In addition:

- A. A Joint Discovery/Case Management Plan** (in the form attached) must be filed at least three (3) business days before the Initial Pretrial Conference.
- B. At the Initial Pretrial Conference**, the Court will enter a **Docket Control Order**. Attached is a form of Docket Control Order used by the Court.
 1. The **parties may agree** on deadlines for completion of pretrial matters and bring a proposed Docket Control Order with them to the Initial Pretrial Conference.
 2. The Docket Control Order will govern throughout the case. The Docket Control Order deadlines shall **not** be modified except by leave of this Court upon a showing of good cause. Parties shall submit recommendations for adjusting all dates in the Docket Control Order that follow the ones sought to be modified.
- C. Added Parties:** If new parties are joined after the Order is mailed, the party causing such joinder shall provide to the new parties (i) copies of all orders previously entered in the case, (ii) the Docket Control Order and (iii) these Court Procedures.

8. REQUIRED PRETRIAL MATERIALS

- A. Joint Pretrial Order:** **Joint Pretrial Orders** must be signed by all counsel. All parties are responsible for complying with all requirements of the Final Joint Pretrial Order.
 1. **Plaintiff is responsible** for ensuring that a complete Joint Pretrial Order is filed on time. A form Joint Pretrial Order is attached. It should be followed, but may be adapted within reason to the size and type of case. If plaintiff fails to file the Joint Pretrial Order, then the defendant is responsible for filing defendant's portions of a Proposed Pretrial Order, as close to the Joint Pretrial Order format as possible.

2. Failure to timely file the Joint Pretrial Order will subject counsel and the client to sanctions, including dismissal for want of prosecution and/or other appropriate judgment. This applies also to parties appearing *pro se*.

B. Other Required Documents: With the filing of the Joint Pretrial Order, **each party** also must file:

1. For **All Trials and Evidentiary Hearings**, parties must file:
 - a. Exhibit List (see attached form);
 - b. Objections to Exhibits, if any; and
 - c. Witness List.
2. For **Jury Trials**, the parties must file a **single, joint proposed jury charge**, including all necessary instructions, definitions and questions.
 - a. **Each** requested **instruction** must be numbered and presented on a separate sheet of paper with authority.
 - b. In joint, proposed jury materials, counsel are to include all necessary instructions or definitions, specifically including (1) the prima facie elements of each cause of action and defense asserted, (2) legal definitions required by the jury, (3) items of damages, and (4) methods of calculation of damages. Counsel are to use the Fifth Circuit Pattern Jury Instructions, as modified by case law or statutory amendments, wherever possible. Any deviations must be identified, and accompanied with legal authorities for the proposed deviation.
 - c. Even if the parties, in good faith, cannot agree on all instructions, definitions or questions, the parties should nonetheless submit a single, **unified** charge. Each disputed instruction, definition, or question should be set out in bold type, underlined or italics and identified as disputed. Each disputed item should be labelled to show which party is requesting the disputed language. Accompanying each instruction shall be all authority or related materials upon which each party relies. The parties shall also submit a 3½" diskette compatible with Corel WordPerfect 6.1 or 8.0.
 - d. Memorandum of law addressing the law governing the case and all contested issues.

3. For **Non-Jury Trials**, each party must file:

- a. Proposed Findings of Fact;
- b. Proposed Conclusions of Law; and
- c. Memorandum of Law.

The Memorandum of law, proposed Findings and proposed Conclusions at a minimum should address the following: (1) the *prima facie* elements of each cause of action and defense asserted, (2) legal definitions, (3) components of damages, and (4) methods of calculation of damages.

9. **TRIAL SETTINGS**

- A. The Court currently holds Docket Call the second Friday of each month at 4:00 p.m. Starting in July 2000, Docket Call will be held the last Friday of the month at 4:00 p.m. unless parties are otherwise notified. The Court uses Docket Call as a final pretrial conference. Parties should be prepared to answer questions on all pending motions. Pending motions may be ruled on at Docket Call. Trial of the case will be set at Docket Call, generally in the weeks following the Docket Call. A case not reached for trial at the original setting will be reset by telephone to the earliest possible date.
- B. Unless an attorney has actually commenced trial in another court, other trial settings will not cause the trial setting of a case to be passed after the Court has set it for trial.
- C. Information on Trial Settings: The Case Manager cannot definitively ascertain when a case will be reached or where a case is on the trial docket. Any predictions given by the Case Manager are only “educated guesses” and are NOT binding on the Court.

10. **EXHIBITS**

- A. **All exhibits** must be **pre-marked** and exchanged among counsel at the time the Pretrial Order is filed in civil cases, unless a later date is agreed by counsel. In civil cases, exhibits shall not be received in evidence that have not been disclosed to opposing counsel **prior** to trial. The offering party will mark its name, the case number, and the exhibit number on each exhibit to be offered. In criminal cases, the schedule for disclosure of exhibits will be set at the pretrial conference.
- B. Counsel **requiring authentication** of an opponent’s exhibit must notify offering counsel in writing within five (5) business days after the exhibit is identified and made available for examination. Failure to do so is an admission of authenticity. *See* Local Rule 11.
- C. Unless otherwise directed by the Court, a party in a civil case may offer in evidence any exhibits listed in the final Joint Pretrial Order unless opposing counsel files specific **written objections** at least three (3) business days before trial. *See* Local Rule 11. The

Court generally rules on objections to exhibits outside the presence of the jury and will do so prior to opening statements, to the extent possible.

D. Trial Procedure as to Exhibits:

1. Counsel may **not pass exhibits to the jury** during trial **without** obtaining **permission** in advance from the Court. Exhibits must be identified in front of the jury before they will be received in evidence. All admitted exhibits will go to the jury during its deliberations.
2. At the opening of trial, counsel for each party is required to provide the Court with a copy of that party's exhibits in a properly tabbed and indexed notebook.

E. Disposition of Exhibits: Counsel should become familiar with Local Rule 11(C) regarding disposition of exhibits following trial.

11. EQUIPMENT

- A. Sound and Video Equipment:** The Court has substantial projection, ELMO, sound and video equipment in the courtroom. Counsel are invited to use that equipment during trial. Counsel who seek to test the equipment prior to trial shall contact the Case Manager by letter or phone, so arrangements can be made to accommodate building security. Parties also may provide their own equipment, but special arrangements must be made prior to trial with the Case Manager.
- B. Other:** Easels with writing pads, a chalkboard, and an x-ray view box are available for use in the Courtroom, upon request to the Case Manager prior to trial.

12. COURTROOM PROCEDURES

- A. Hours:** The Court's hours during trial will vary depending upon the type of case and the needs of the parties, counsel, witnesses, and the Court. Court normally will convene at 8:30 a.m. and normally will adjourn by 5:30 p.m., with a 12:15 to 1:30 p.m. lunch recess. The Court generally does not try cases on Friday afternoons, due to civil and criminal conferences, sentencings and other matters scheduled for that time.
- B. Access at Other Times:**
1. Counsel needing access to the Courtroom to set up equipment or exhibits before or after normal hours of Court must arrange in advance with the Case Manager to have the Courtroom open.
 2. Enter and leave the Courtroom only by the front doors; do not use the Court's entrance or the side entrances.

- C. **Telephones:** Telephone messages for counsel generally will **not** be taken by the Judge's staff, and counsel shall refrain from requesting use of telephones in Chambers. Public telephones are available near the elevators.
- D. **Filing of Documents:** Handing documents to the Court or Case Manager does **not** constitute the filing of documents.
1. All original documents must be filed in the Court Clerk's Office.
 2. Copies of documents filed immediately prior to and during trial should be submitted to the Case Manager **IN DUPLICATE**.
- E. **Attorney Conference Rooms:** Attorney conference rooms are available upon request to the Judge's Case Manager or Secretary. A key will be given to counsel for use throughout the trial. Counsel must clear the room of all materials and return the key to the Case Manager or Secretary at the conclusion of the trial.
- F. **Decorum:**
1. Counsel and parties will comply with Local Rule 19 regarding Courtroom Behavior. These procedures are strictly enforced.
 2. Counsel shall stand when addressing the Court. Counsel may use a lectern positioned appropriately to make oral argument. Counsel may question witnesses standing at the lectern or seated at counsel table.
 3. Counsel will ensure that they, all parties and witnesses refrain from drinking, eating, smoking or reading newspapers, books, etc. in the Courtroom. No telephone beepers, pagers or cellular phones are allowed to be operated in the Courtroom.
- G. **Witnesses:**
1. Counsel are responsible for summoning witnesses into the Courtroom and instructing them on Courtroom decorum. Witnesses may be questioned by the attorney seated at counsel table or standing at the lectern.
 2. Counsel should bear in mind the Court's hours and arrange for witnesses accordingly. The Court will not recess to permit counsel to call a missing witness, unless he or she has been subpoenaed and has failed to appear.
 3. Counsel shall make every effort to elicit from the witnesses only information relevant to the issues in the case and to avoid cumulative testimony.
- H. **Seating Assignments:** The Court does **not** designate seating at counsel tables. Seating is determined on a first-come, first-served basis on the first day of trial.

I. Jury Matters:

1. While the jury is deliberating, counsel are to remain near the Courtroom to be immediately available for jury notes or a verdict, unless given permission to leave by the Court.
2. After the jury is excused, counsel may **not** contact jurors unless permitted to do so by the Court. *See* Local Rule 12.

13. VOIR DIRE

The Court will conduct a preliminary examination of the jury panel.

- A. Following the Court's examination, each side in **civil cases** usually will be allowed briefly to examine the panel, provided that the proposed *voir dire* questions are submitted as part of the Joint Pretrial Order.
- B. The Court will conduct most, if not all, of the examination of the panel in criminal cases, although the Court makes a case-by-case determination.

14. USE OF DEPOSITIONS AT TRIAL

- A. The Court will accept the parties' agreement to use a deposition at trial even though the witness is available. Otherwise, parties must follow Fed. R. Civ. P. 32.
- B. Before trial, counsel must provide the Case Manager or law clerk with a copy of all depositions to be used as exhibits at trial.
- C. Counsel will designate the portion of any deposition to be read by citing pages and lines in the Joint Pretrial Order. Objections to those portions (citing pages and lines) with supporting authority must be filed at least three (3) business days before trial.
- D. Use of videotape depositions is permitted to the extent the parties agree on admissibility or edit to resolve objections.
- E. In a **bench trial**, for any deposition offered as a trial exhibit, counsel shall attach to the front of the exhibit a summary of what each party intends to prove by the deposition testimony, with line and page citations.

15. SETTLEMENTS AND ORDERS OF DISMISSAL

A. Settlements

1. **Upon the settlement of any case set for conference, hearing or trial, counsel must immediately notify the Case Manager.**
2. Upon receipt of parties' announcement of settlement, the Court will enter a 30- or 60-day conditional order of dismissal, which permits a party to move to reopen the case if final settlement papers cannot be completed within the allotted time.
3. Upon settlement of a suit involving a minor plaintiff, counsel must jointly move for appointment of a *guardian ad litem* if there is potential conflict of interest between the parent(s) and the minor.
 - a. If counsel cannot agree on a *guardian ad litem*, the Court will make the appointment. Counsel may submit proposed names for the appointment.
 - b. Contemporaneously with the motion for appointment, counsel must notify the Case Manager by letter requesting a settlement conference.

B. Orders of Dismissal For Want of Prosecution

Any defendant upon whom service has not been perfected within 120 days after the complaint is filed will be dismissed for want of prosecution in accordance with Fed. R. Civ. P. 4(m).

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

	§	
	§	
Plaintiff(s),	§	
	§	
v.	§	Civil Action No. H-_____
	§	
	§	
	§	
Defendant(s).	§	

CERTIFICATE OF SERVICE IN REMOVED ACTION

I certify compliance with the Court’s Order entered upon filing of the petition for removal of this action.

On _____, 19__, I served copies of the Order for Conference and Court Procedures on all other parties.

Date

Attorney for Defendant(s)

_____	§	
	§	
Plaintiff(s),	§	
	§	
v.	§	Civil Action No. H-_____
	§	
_____	§	
	§	
Defendant(s).	§	

Anticipated Length of Trial: _____ Days Jury: _____ Non-Jury: _____

1. (a) **NEW PARTIES** shall be joined by:
The attorney causing the addition of new parties must provide copies of this Order to new parties.

(b) **AMENDMENTS to PLEADINGS** by Plaintiff or Counter-Plaintiff shall be filed by:
2. **EXPERT WITNESSES for PLAINTIFF** shall be identified by a report listing the qualifications of each expert, each opinion the expert will present, and the basis for it. DUE DATE:
3. **EXPERT WITNESSES for DEFENDANT** shall be identified by a report listing the qualifications of each expert, each opinion the expert will present, and the basis for it. DUE DATE:
4. **MEDIATION/ADR:** Parties are to submit jointly a letter report to the Court at the **Close of Discovery** stating whether mediation or other form of ADR has been conducted or would be helpful. If ADR would be helpful, the parties are to state the form of ADR they think will best suit the case; whether they wish to select the neutral and, if so, whom they have agreed to select; when they want to utilize ADR; and any other information relevant to the entry of a Court Order on mediation/ADR. If no ADR is desired, the parties are to state the reasons in detail.
ADR, if any, MUST BE COMPLETED by:

5. **DISCOVERY** must be completed by: _____
Written discovery requests are not timely if they are filed so close to this deadline that the recipient would not be required under the Federal Rules of Civil Procedure to respond until after the deadline.
6. **DISPOSITIVE MOTIONS** will be filed by: _____
7. **ALL OTHER PRETRIAL MOTIONS** (including *Daubert* motions, but not including other motions in limine) will be filed by: _____
(Typically this date will match #6.)
8. **JOINT PRETRIAL ORDER** will be filed by: _____
Plaintiff is responsible for timely filing the complete Joint Pretrial Order in the form set forth in the Court's Procedures.
9. **DOCKET CALL** is set in Courtroom 9-F, starting at 4:00 p.m. _____
(The Court will set this date.) No documents filed within 7 days before the Docket Call will be considered at Docket Call.

Date

NANCY F. ATLAS
United States District Judge

APPROVAL REQUESTED:

Counsel for Plaintiff(s)

Date

Counsel for Defendant(s)

Date

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

	§	
	§	
Plaintiff(s),	§	
	§	
v.	§	Civil Action No. H-_____
	§	
	§	
	§	
Defendant(s).	§	

**JOINT DISCOVERY/CASE MANAGEMENT PLAN
UNDER RULE 26(f)
FEDERAL RULES OF CIVIL PROCEDURE**

(Please restate the instruction before furnishing the information.)

1. State where and when the meeting of the parties required by Rule 26(f) was held, and identify the counsel who attended for each party.
2. List the cases related to this one that are pending in any state or federal court with the case number and court, and state how they are related.
3. Briefly describe what this case is about.
4. Specify the allegation of federal jurisdiction.
5. Name the parties who disagree with the plaintiff's jurisdictional allegations and state their reasons.
6. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.
7. List anticipated interventions.
8. Describe class-action issues.
9. State whether each party represents that it has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.
10. Describe the proposed agreed discovery plan, including:

- a. Responses to all the matters raised in Rule 26(f).
 - b. When and to whom the plaintiff anticipates it may send interrogatories.
 - c. When and to whom the defendant anticipates it may send interrogatories.
 - d. Of whom and by when the plaintiff anticipates taking oral depositions.
 - e. Of whom and by when the defendant anticipates taking oral depositions.
 - f.
 - (i) Specify the date experts for plaintiff (or party with the burden of proof on an issue) will be designated and their reports provided to opposing party.
 - (ii) Specify the date experts for defendant will be designated and their reports provided to opposing party.
 - g. List expert depositions the plaintiff (or party with the burden of proof on an issue) anticipates taking and their anticipated completion date. *See* Rule 26(a)(2)(B) (expert report).
 - h. List expert depositions the defendant (or opposing party) anticipates taking and their anticipated completion date. *See* Rule 26(a)(2)(B) (expert report).
- 11. If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.
 - 12. Specify the discovery beyond initial disclosures that has been undertaken to date.
 - 13. State the date the planned discovery can reasonably be completed.
 - 14. Describe the possibilities for a prompt settlement or resolution of the case that were discussed in your Rule 26(f) meeting.
 - 15. Describe what each party has done or agreed to do to bring about a prompt resolution.
 - 16. From the attorneys' discussion with their client(s), state the alternative dispute resolution techniques that are reasonably suitable.
 - 17. Magistrate judges may now hear jury and non-jury trials. Indicate the parties' joint position on a trial before a magistrate judge.
 - 18. State whether a jury demand has been made and if it was made on time.
 - 19. Specify the number of hours it will take to present the evidence in this case.
 - 20. List pending motions that could be ruled on at the initial pretrial and scheduling conference.

21. List other motions pending.
22. Indicate other matters peculiar to this case, including discovery, that deserve the special attention of the court at the conference.
23. Certify that all parties have filed Disclosure of Interested Persons as directed in the Order for Conference and Disclosure of Interested Persons, listing the date of filing for original and any amendments.
24. List the names, bar numbers, addresses and telephone numbers of all counsel.

Counsel for Plaintiff(s) Date

Counsel for Defendant(s) Date

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

	§	
	§	
Plaintiff(s),	§	
	§	
v.	§	Civil Action No. H-_____
	§	
	§	
	§	
	§	
Defendant(s).	§	

JOINT PRETRIAL ORDER

[See generally Judge Atlas' Court Procedures, § 8]

Appearance of Counsel

List the parties, their respective counsel, and the addresses and telephone numbers of counsel in separate paragraphs.

Statement of the Case

Give a brief agreed statement of the case for the information of the Court and/or which the Court may read to the jury panel to see if the panel is acquainted with the facts of or parties to the case. Include names, dates and places.

Jurisdiction

Briefly set out why the Court has full and complete jurisdiction of the subject matter and the parties. If there is an unresolved jurisdictional question, state the problem.

Motions

Identify any pending motions.

Contentions of the Parties

State concisely in separate paragraphs what each party claims.

Admissions of Fact

List all facts which have been stipulated and admitted and require no proof.

Contested Issues of Fact

List all factual issues in controversy necessary to the final disposition of this case.

Agreed Applicable Propositions of Law

Delineate those legal propositions not in dispute.

Contested Issues of Law

State briefly the issues of law in dispute. A memorandum of law should be filed which addresses these issues.

Exhibits

Each counsel must attach to this Joint Pretrial Order **two** copies of a list (in the form shown by Attachment A or a similar form) of all exhibits to be offered and will make all such exhibits available for examination by opposing counsel. This rule applies to rebuttal exhibits except in the limited circumstances when the exhibits cannot be anticipated.

Any counsel requiring authentication of an exhibit must so notify the offering counsel in writing within five business days after the exhibit is made available to opposing counsel for examination. Failure to do so is an admission of authenticity.

The Court will admit all exhibits listed in the final pretrial order into evidence unless opposing counsel files written objections with authorities at least three business days before trial.

The offering party will mark his own exhibits prior to trial and include the party's name, case number, and exhibit number on each exhibit to be offered.

Witnesses

List the names and addresses of witnesses who will or may be called and include a brief statement of the subject matter and substance of their testimony. If a witness is to appear by deposition, cite the inclusive pages and lines to be read. Objections to those portions (citing pages and lines) with supporting authority must be filed at least three business days before trial.

Each counsel will also attach to the joint pretrial order two copies of a list of witnesses' names only for use by Court personnel.

Include in this section the following:

In the event there are any other witnesses to be called at the trial, their names, addresses and the subject matter of their testimony shall be reported to opposing counsel as soon as they are known. This restriction shall not apply to rebuttal or impeaching witnesses, the necessity of whose testimony cannot reasonably be anticipated before the time of trial.

Settlement

Include a statement that addressing whether or not all settlement efforts have been exhausted, the current settlement demand and offer, and whether the case can reasonably be expected to settle.

Trial

Include in this paragraph the following:

- (a) Whether trial will be Jury or Non-Jury;
- (b) Probable length of trial; and
- (c) Availability of witnesses.

Additional Required Attachments

Motions in Limine: State whether any party is filing a Motion in Limine. (All Motions in Limine must be filed with the Pretrial Order.)

For Jury Trials include the following IN DUPLICATE:

- (a) Proposed questions for the venire panel.
- (b) Proposed jury instructions, definitions, and interrogatories. Each requested instruction, definition, and interrogatory must be numbered and presented on a separate sheet of paper with the citation and authority upon which counsel rely.
- (c) Memorandum of Law.

For Non-Jury Trials include the following IN DUPLICATE:

- (a) Proposed Findings of Fact.
- (b) Proposed Conclusions of Law.
- (c) Memorandum of Law.

Date

NANCY F. ATLAS
United States District Judge

APPROVAL:

Counsel for Plaintiff(s)

Counsel for Defendant(s)

<p>_____, Plaintiff,</p> <p>v.</p> <p>_____, Defendant.</p>	<p>Civil Action/Criminal No. _____</p> <p>Judge: Nancy F. Atlas Case Manager: Shelia Ashabranner</p> <p>Courtroom Deputy: _____ Court Reporter: _____</p> <p>Proceeding: _____</p>
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[illegible]

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**NOTICE OF THE RIGHT TO TRY
A CIVIL CASE BEFORE A MAGISTRATE JUDGE**

With the consent of all the parties, a United States Magistrate Judge may preside in a civil case, including a jury trial and entry of a final judgment.

The choice of trial before a Magistrate Judge is entirely yours. Tell only the Clerk. Neither the District Judge or Magistrate Judge will be told until all the parties agree.

The District Judge to whom your case is assigned must approve the referral to a Magistrate Judge.

You may get consent forms from the Clerk.

Michael N. Milby, Clerk
United States District Clerk
Southern District of Texas

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

	§	
	§	
Plaintiff(s),	§	
	§	
v.	§	Civil Action No. H-_____
	§	
	§	
	§	
Defendant(s).	§	

**CONSENT TO PROCEED BEFORE
UNITED STATES MAGISTRATE JUDGE CALVIN BOTLEY
(Civil Case)**

In accordance with the provisions of 28 U.S.C. § 636(c), the parties to this action waive their rights to proceed before a District Judge of the Court and consent to have United States Magistrate Judge Calvin Botley conduct all further proceedings in the case, including hearings and rulings on motions, pretrial conferences and trial, and the entry of judgment. All parties must execute this form.

	for	
	for	
	for	
	for	

ORDER TO TRANSFER

It is **ORDERED** that the Clerk of Court reassign this action to United States Magistrate Judge Calvin Botley to conduct all further proceedings, including hearings and rulings on motions, pretrial conferences and trial, and the entry of final judgment in accordance with 28 U.S.C. § 636(c) and the consent of the parties.

Date

NANCY F. ATLAS
UNITED STATES DISTRICT JUDGE